



# HHS PROTECT: THE EXPANSION OF DRAGNET PUBLIC HEALTH SURVEILLANCE

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## INTRODUCTION

As the COVID-19 pandemic swept through the country, the Trump Administration and tech companies exploited the momentum of the crisis and established a dangerous precedent for public health surveillance. In April 2020, the Department of Health and Human Services rushed through a \$24.9 million contract for Palantir Technologies—the same company which helps ICE detain and deport immigrants—to develop HHS Protect<sup>1</sup> in support of the agency’s COVID-19 response. Since then, HHS Protect has compiled immense amounts of sensitive information, neglected guarantees against abuses of this data, and failed to prove the platform’s utility.

This fact sheet summarizes the intent of HHS Protect, explains the selection of Palantir, highlights why we should worry about this platform, and recommends ending the surveillance program if their fundamental flaws are not corrected.



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## WHAT IS HHS PROTECT?

“ The new White House/HHS data process raises fundamental concerns. What data will be collected, how, by whom, with what standards, under what authority? What quality checks and privacy safeguards will be implemented? How will the institutions collecting the data be supported?”<sup>2</sup>

*Former CDC Director Tom Frieden, MD* ”

HHS Protect has the stated purpose of mitigating and preventing the spread of COVID-19 by tracking case counts, hospital capacity, patient care supplies, and protective equipment.<sup>3</sup> HHS Protect uses Palantir’s Gotham platform,<sup>4</sup> which aggregates and correlates data from disparate databases into tables, graphs, timelines, heat maps, artificial-intelligence models, network diagrams, and geospatial analyses.<sup>5</sup>

Palantir has developed Gotham and other services by making itself a go-to contractor for intelligence agencies, the military, and police departments, starting off with CIA funding in 2003.<sup>6</sup> Its recent work includes an \$823 million contract with the Army,<sup>7</sup> an \$80 million contract with the Navy,<sup>8</sup> and more than \$50 million across contracts with Immigration and Customs Enforcement.<sup>9</sup> The deep involvement of military leaders in the Trump-led initiative for vaccine development,<sup>10</sup> Palantir’s prior contracts with HHS,<sup>11</sup> and HHS’s years-long procrastination in developing a robust information system<sup>12</sup> facilitated the hasty selection of this company.

Palantir completed development of HHS Protect by the summer, and in July 2020, HHS abruptly required all hospitals to begin reporting COVID-related data to TeleTracking Technologies, a private contractor that funnels information into HHS Protect. In August, the Trump administration threatened to rescind Medicare and Medicaid funding from hospitals that failed to comply.<sup>13</sup> This switch from the traditional reporting line to the CDC placed a major burden on hospitals at the summer’s peak in the pandemic.

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## SIX REASONS WE SHOULD WORRY ABOUT HHS PROTECT

### 1 HHS Protect Contains Vast Amounts of Personal Data

HHS Protect holds over 200 datasets, including information about COVID-19 case counts, hospital capacity, supply chain data, census statistics, testing data, and emergency department data.<sup>14</sup> These datasets come from federal, state, and local governments; colleges and universities; hospitals and clinics; and at least 15 private companies.<sup>15,16</sup> HHS has said it does not store personally identifiable information, but all evidence points to HHS maintaining highly sensitive personal data.

HHS requires clinics testing for COVID-19 to share a patient's age, race, ethnicity, sex, zip code, county, and test results. The agency also encourages clinics to report a patient's name, address, phone number, DOB, hospitalization status, and pregnancy status, depending on state and local privacy standards.<sup>17</sup> HHS's own documentation additionally notes that HHS Protect contains "geospatial records".<sup>18</sup> A New York Times investigation showed that location data is extremely revealing of a person's habits and relationships,<sup>19</sup> and the government has failed to demonstrate how location surveillance will help with its pandemic response.<sup>20</sup>

Furthermore, the agency may be collecting information about patients regardless of whether they have taken a COVID-19 test.<sup>21</sup> There is no limitation on HHS demanding more personal data.

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**2****HHS Has Not Issued Any Formal Policy Limiting Data Access, Repurposing, or Retention**

Aside from statements by press officers,<sup>22</sup> HHS has not issued a formal policy restricting access to HHS Protect data or preventing use of this data for criminalization and deportation. Multiple Congressional letters seeking assurances around data privacy and use restrictions have gone unanswered. DHS and DOJ, both of which have sub-agencies that enforce immigration law, may have access to HHS Protect.<sup>23</sup> In July 2020, Katherine McKeogh, then-spokesperson for HHS, stated that ICE did not have access to the COVID-19 data platform,<sup>24</sup> but HHS has not provided official assurances that they would bar access in the future.<sup>25</sup>

Recent changes in HHS data regulations raise further concerns about the potential use of this data for criminal or immigration enforcement. Whereas pre-COVID rules only allowed HHS to disclose its data to the DOJ when HHS was the defendant in litigation, the System of Records Notices for HHS Protect indicate that HHS may disclose data when the United States government “is a party to the proceeding or has an interest in such proceeding.”<sup>26</sup> This could provide HHS with permission to use the data in government enforcement scenarios such as immigration proceedings.

Moreover, there is no sunset time for HHS Protect and its surveillance data collection. HHS officials have pointed to the platform as a model for future cross-government needs.<sup>27</sup>

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### **HHS's Prior Abuses Raise Serious Questions About Future Uses of HHS Protect**

The lack of a data access, use, and retention policy is alarming in light of HHS's prior role as an accessory to oppressive immigration policies. In April 2018, HHS's Office of Refugee Resettlement (ORR) began to share information with ICE about unaccompanied children in government custody and their prospective sponsors.<sup>28</sup> This practice resulted in the arrest of hundreds of immigrants, discouraged potential sponsors from coming forward, and kept children for prolonged stays in ORR shelters.<sup>29</sup>

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### **Palantir Is the Backbone of DHS's Deportation Machine and Has Enabled Predictive Policing**

Palantir, the company which has built the HHS Protect platform, is no stranger to immigration enforcement and policing. It played a pivotal role in providing intelligence to ICE during the Obama administration and bolstered ICE's extreme vetting initiative under Trump.<sup>30</sup> The company also provided critical support for a 2017 detention operation targeting unaccompanied children and their families,<sup>31</sup> along with the August 2019 arrest of 680 immigrant workers across Mississippi, which constituted the largest immigration raid in a decade.<sup>32</sup> Additionally, Palantir has supported the Los Angeles and New Orleans Police Departments with predictive policing programs that propagate racist feedback loops.<sup>33,34</sup>

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## 5 Palantir Will Reap Major Benefits from Its Support for HHS Protect

The pandemic has given Palantir a prime opportunity to enhance its platforms and services for future use in military operations and enforcement action. By embedding itself into HHS’s COVID-19 response, the company has also cemented its long-term role in government health surveillance. Palantir has already created Tiberius, a platform for tracking the development and production of vaccines and assisting with vaccine prioritization.<sup>35</sup> The company’s parallel work with the UK’s National Health Service points to another potential benefit: depending on the terms of the contract, Palantir could derive crucial intellectual property from HHS Protect.<sup>36,37</sup> Moreover, if HHS wanted to learn from its pandemic response and improve its data collection, aggregation, and analysis for future public health needs, it would be reliant on Palantir for this learning.<sup>38</sup> In addition to deepening its work with HHS and honing its services, the company has been able to use its COVID-19 work to rebrand its reputation as the preferred surveillance company of ICE and the police, and normalize its surveillance capitalism business model.<sup>39,40</sup>

## 6 HHS Protect Isn’t Helping Us Fight the Pandemic

During Trump’s presidency, HHS Protect initially delivered nightly reports to coronavirus response coordinator Deborah Birx but failed to share critical information, such as available protective equipment, with many state and local officials.<sup>41</sup> According to a Science investigation from November 2020, the information that did trickle through seemed to be wildly inaccurate. For example, HHS’s tally of inpatients with COVID-19 differed from state data by a margin of more than 20% for 30 states. Data on hospital bed capacity was also dramatically different from other HHS division

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reports. On November 16<sup>th</sup>, HHS Protect showed Wisconsin beds at 71% capacity, whereas data from the Office of the Assistant Secretary for Preparedness and Response (ASPR), another division of HHS, showed hospitals at 91% capacity.<sup>42</sup> While HHS Protect data seems to have improved in accuracy and transparency since November,<sup>43</sup> the platform has done relatively little to achieve its core mission. **The platform's inaccuracy has led veteran CDC officials to recommend dumping the platform altogether.**<sup>44</sup>

## **RECOMMENDATION: SHUT DOWN HHS PROTECT**

HHS Protect perpetuates a long trend of dragnet surveillance and ingrains reliance on a company that cannot be trusted with sensitive personal information. HHS's and Palantir's abysmal human rights track records, along with the government's failure to prove the utility of this data, indicate that HHS Protect must end. We've seen technosolutionism harm immigrants before,<sup>45</sup> and the same may happen here. With its overly broad collection of data, potential secondary uses, and continued refusal to issue data privacy guidelines, HHS Protect could discourage vulnerable communities from seeking necessary healthcare.<sup>46,47</sup> The pandemic is only getting worse, which makes it imperative to design and leverage public health solutions that build trust and encourage participation. Invasive technology from contractors that drive deportation and criminalization is not the way to go.

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## REFERENCES

<sup>1</sup> Dave Nyczepir, HHS cites coronavirus 'urgency' in speedy Palantir contract awards, FedScoop (May 8<sup>th</sup>, 2020), <https://www.fedscoop.com/hha-covid-funds-palantir/>.

<sup>2</sup> Shannon Firth, As COVID Data Collection Moves From CDC to HHS, Questions Mount, MedPage Today (July 17, 2020), <https://www.medpagetoday.com/infectiousdisease/covid19/87632>; @DrTomFrieden, Twitter, July 15, 2020, 10:28 a.m., <https://twitter.com/DrTomFrieden/status/1283453349866635264?s=20>.

<sup>3</sup> Erin Banco and Spencer Ackerman, Team Trump Turns to Peter Thiel's Palantir to Track Virus, The Daily Beast (April 21, 2020), <https://www.thedailybeast.com/trump-administration-turns-to-peter-thiels-palantir-to-track-coronavirus>.

<sup>4</sup> Dave Nyczepir, HHS cites coronavirus 'urgency' in speedy Palantir contract awards, FedScoop (May 8<sup>th</sup>, 2020), <https://www.fedscoop.com/hha-covid-funds-palantir/>.

<sup>5</sup> Michael Steinberger, Does Palantir See Too Much?, The New York Times (October 21, 2020), <https://www.nytimes.com/interactive/2020/10/21/magazine/palantir-alex-karp.html>.

<sup>6</sup> Ibid.

<sup>7</sup> Lizzette Chapman, Peter Thiel's Palantir Wins Role in \$823 Million Government Contract, Bloomberg (February 25, 2020), <https://www.bloomberg.com/news/articles/2020-02-25/peter-thiel-s-palantir-wins-role-in-823-million-government-contract>.

<sup>8</sup> Aaron Gregg, Palantir seals its first major U.S. Navy deal as Raytheon is passed over, The Washington Post (March 5, 2020), <https://www.washingtonpost.com/business/2020/03/05/palantir-first-navy-contract/>.

<sup>9</sup> USASpending.gov, Spending by Prime Award, USASpending.gov (Accessed January 18, 2021), <https://www.usaspending.gov/search/ab4b43bd707aa288e4d2aa0e2ec63ab1>.

<sup>10</sup> Nicholas Florco, New document reveals scope and structure of Operation Warp Speed and underscores vast military involvement, STAT News (September 28, 2020), <https://www.statnews.com/2020/09/28/operation-warp-speed-vast-military-involvement/>.

<sup>11</sup> USASpending.gov, Spending by Prime Award, USASpending.gov (Accessed February 9, 2021), <https://www.usaspending.gov/search/07bef9ad703b205bd61bb8d0bc2b1310>.

<sup>12</sup> Liz Essley Whyte, New, Secretive Data System Shaping Federal Pandemic Response, Center for Public Integrity (September 22, 2020), <https://publicintegrity.org/health/coronavirus-and-inequality/secretive-data-system-shaping-pandemic-response-hhs-protect/>.

<sup>13</sup> Sheryl Gay Stolberg, Trump Administration Orders Hospitals to Report Data or Risk Losing Funding, The New York



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Times (August 25, 2020), <https://www.nytimes.com/2020/08/25/us/politics/trump-coronavirus-data.html>.

<sup>14</sup> Dave Nyczepir, Inside the HHS System informing White House coronavirus decisions, FedScoop (April 21, 2020), <https://www.fedscoop.com/hhs-system-white-house-coronavirus-response-jose-arrieta/>.

<sup>15</sup> Liz Essley Whyte, New, Secretive Data System Shaping Federal Pandemic Response, Center for Public Integrity (September 22, 2020), <https://publicintegrity.org/health/coronavirus-and-inequality/secretive-data-system-shaping-pandemic-response-hhs-protect/>.

<sup>16</sup> Aaron Holmes, HHS is paying Peter Thiel's Palantir \$24.9 million to track coronavirus. Lawmakers want to know if it's using that data to help ICE deport people, Business Insider (June 26<sup>th</sup>, 2020), <https://www.businessinsider.com/lawmakers-question-palantir-coronavirus-tracking-contracts-hhs-ice-2020-6>.

<sup>17</sup> U.S. Department of Health and Human Services, COVID-19 Pandemic Response, Laboratory Data Reporting: CARES Act Section 18115, HHS (June 4<sup>th</sup>, 2020), <https://www.hhs.gov/sites/default/files/covid-19-laboratory-data-reporting-guidance.pdf>.

<sup>18</sup> Jennifer Lynch, Lee Tien, and Adam Schwartz, Comments of the Electronic Frontier Foundation Regarding System of Records Notices 09-90-2001, 09-90-2002, Electronic Frontier Foundation (August 17, 2020), <https://www.eff.org/document/2020-08-17-eff-comments-re-hhs-regs-re-covid-data>.

<sup>19</sup> Stuart A. Thompson and Charlie Warzel, One Nation, Tracked: An Investigation into the Smartphone Tracking Industry, Times Opinion, New York Times (Dec. 12, 2019), <https://www.nytimes.com/interactive/2019/12/19/opinion/location-tracking-cell-phone.html>.

<sup>20</sup> Adam Schwartz and Andrew Crocker, Governments Haven't Shown Location Surveillance Would Help Contain COVID-19, Electronic Frontier Foundation (March 23, 2020), <https://www.eff.org/deeplinks/2020/03/governments-havent-shown-location-surveillance-would-help-contain-covid-19>.

<sup>21</sup> Jennifer Lynch, Lee Tien, and Adam Schwartz, Comments of the Electronic Frontier Foundation Regarding System of Records Notices 09-90-2001, 09-90-2002, Electronic Frontier Foundation (August 17, 2020), <https://www.eff.org/document/2020-08-17-eff-comments-re-hhs-regs-re-covid-data>.

<sup>22</sup> Reed Albergotti, Lawmakers call for more transparency in health agency's pandemic data collection practices, The Washington Post (July 1, 2020), <https://www.washingtonpost.com/technology/2020/07/01/warren-hhs-data-collection/>.

<sup>23</sup> Conversations with Congressional staff.

<sup>24</sup> Reed Albergotti, Lawmakers call for more transparency in health agency's pandemic data collection practices, The Washington Post (July 1, 2020), <https://www.washingtonpost.com/technology/2020/07/01/warren-hhs-data-collection/>.

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<sup>25</sup> Conversations with Congressional staff.

<sup>26</sup> Department of Health and Human Services, COVID-19 Insights Collaboration Records, 09-90-2002, Federal Register (July 16, 2020), <https://www.federalregister.gov/documents/2020/07/16/2020-15380/privacy-act-of-1974-system-of-records>.

<sup>27</sup> Conversations with Congressional staff.

<sup>28</sup> Leah Chavla and Joann Bautista, Children as Bait: Impacts of the ORR-DHS Information Sharing Agreement, National Immigrant Justice Center (March 2019), <https://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2019-03/Children-as-Bait.pdf>.

<sup>29</sup> Gaby Del Valle, ICE Has Arrested Hundreds of Prospective Sponsors for Migrant Kids, VICE (July 25, 2019), <https://www.vice.com/en/article/d3nna/ice-has-arrested-hundreds-of-prospective-sponsors-for-migrant-kids>.

<sup>30</sup> Spencer Woodman, Documents suggest Palantir could help power Trump's 'extreme vetting' of immigrants, The Verge (December 21, 2016), <https://www.theverge.com/2016/12/21/14012534/palantir-peter-thiel-trump-immigrant-extreme-vetting>.

<sup>31</sup> Sam Biddle and Ryan Devereaux, Peter Thiel's Palantir Was Used to Bust Relatives of Migrant Children, New Documents Show, The Intercept (May 2, 2019), <https://theintercept.com/2019/05/02/peter-thiels-palantir-was-used-to-bust-hundreds-of-relatives-of-migrant-children-new-documents-show/>.

<sup>32</sup> Breaking: Palantir's Technology Used in Mississippi Raids Where 680 Were Arrested, Mijente (October 4<sup>th</sup>, 2019), <https://mijente.net/2019/10/palantirpowersraids/>.

<sup>33</sup> Before the Bullet Hits the Body – Dismantling Predictive Policing in Los Angeles, Stop LAPD Spying Coalition (May 8, 2018), <https://stoplapdspying.org/before-the-bullet-hits-the-body-dismantling-predictive-policing-in-los-angeles/>.

<sup>34</sup> Ali Winston, Palantir Has Secretly Been Using New Orleans to Test Its Predictive Policing Technology, The Verge (February 27, 2018), <https://www.theverge.com/2018/2/27/17054740/palantir-predictive-policing-tool-new-orleans-nopd>.

<sup>35</sup> Peter Loftus and Rolfe Winkler, Palantir to Help U.S. Track Covid-19 Vaccines, The Wall Street Journal (October 22, 2020), <https://www.wsj.com/articles/palantir-to-help-u-s-track-covid-19-vaccines-11603367276>.

<sup>36</sup> Mary Fitzgerald and Caroline Malloy, Fresh concerns over privacy and profit in NHS COVID data deals, Open Democracy (June 19, 2020), <https://www.opendemocracy.net/en/opendemocracyuk/fresh-concerns-over-privacy-and-profit-nhs-covid-data-deals/>.

<sup>37</sup> Cori Crider, It started as £1. Now it's £1 million. Where's the mandate for letting Palantir into our NHS?, Open Democracy (July 16, 2020), <https://www.opendemocracy.net/en/opendemocracyuk/it-started-as-1-now-its-1-million>.

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[wheres-the-mandate-for-letting-palantir-into-our-nhs/](#).

<sup>38</sup> Mary Fitzgerald and Caroline Malloy, Fresh concerns over privacy and profit in NHS COVID data deals, Open Democracy (June 19, 2020), <https://www.opendemocracy.net/en/opendemocracyuk/fresh-concerns-over-privacy-and-profit-nhs-covid-data-deals/>.

<sup>39</sup> Ivan Manokha, How data mining companies are set to gain from the COVID-19 pandemic, Open Democracy (March 31, 2020), <https://www.opendemocracy.net/en/can-europe-make-it/how-data-mining-companies-are-set-gain-covid-19-pandemic/>.

<sup>40</sup> Sam Biddle, Privacy Experts Say Responsible Coronavirus Surveillance Is Possible, The Intercept (April 2, 2020), <https://theintercept.com/2020/04/02/coronavirus-covid-19-surveillance-privacy/>.

<sup>41</sup> Liz Essley Whyte, Analysis: Trump Administration's Coronavirus Advice Is Secret, Fragmented and Contradictory, The Center for Public Integrity (August 27, 2020), <https://publicintegrity.org/health/coronavirus-and-inequality/analysis-trump-coronavirus-advice-secret-contradictory/>.

<sup>42</sup> Charles Piller, Federal system for tracking hospital beds and COVID-19 patients provides questionable data, Science (November 29, 2020), <https://www.sciencemag.org/news/2020/11/federal-system-tracking-hospital-beds-and-covid-19-patients-provides-questionable-data>.

<sup>43</sup> Alexis Madrigal, America's Most Reliable Pandemic Data Are Now at Risk, The Atlantic (January 18, 2021), <https://www.theatlantic.com/health/archive/2021/01/hhs-hospitalization-pandemic-data/617725/>.

<sup>44</sup> Erin Banco, CDC Officials Urge Biden Team to Dump Palantir's COVID Tracker, The Daily Beast (January 15<sup>th</sup>, 2021), <https://www.thedailybeast.com/cdc-officials-urge-biden-team-to-dump-palantirs-covid-tracker>.

<sup>45</sup> Geoffrey Alan Boyce, Samuel N. Chambers, and Sarah Launius, Democrats' 'smart border' technology is not a 'humane' alternative to Trump's wall, The Hill (February 11, 2019), <https://thehill.com/opinion/immigration/429454-democrats-smart-border-technology-is-not-a-humane-alternative-to-trumps>.

<sup>46</sup> April Glaser, Palantir's pandemic contracts stir concern ahead of IPO, NBC News (July 22, 2020), <https://www.nbcnews.com/tech/tech-news/palantir-s-pandemic-contracts-stir-concern-ahead-ipo-n1234537>.

<sup>47</sup> Miriam Jordan, 'We're Petrified': Immigrants Afraid to Seek Medical Care for Coronavirus, The New York Times (March 18, 2020), <https://www.nytimes.com/2020/03/18/us/coronavirus-immigrants.html>.